



**RESPONSES TO SUPPLEMENTAL QUESTIONS FROM  
THE MINORITY MEMBERS OF THE  
COMMITTEE ON HOUSE ADMINISTRATION**

September 11, 2023

1. *The Committee's May 24, 2023, letter and corresponding Commission responses discussed the status of the General Counsel position, which has been in an "acting" capacity since July 2013. The Commission noted that a new "vacancy announcement for this position was opened on June 15, 2023, and will close on July 14, 2023." Please provided any update on the status of the position search.*

The Commission is planning to fill this role on a permanent basis. The vacancy announcement for this position was opened on June 15, 2023. The vacancy announcement was extended and closed on July 28, 2023. Applications for this position have been reviewed for meeting the position's minimum qualifications, and the Agency recruited an external panelist to sit on the initial Hiring Panel. The initial Hiring Panel convenes this month to review the applicants who meet minimum qualifications, conduct interviews, and recommend their top candidates for the Commission to interview.

2. *The Committee's May 24, 2023, letter asked how many times since the Supreme Court's decision in Citizens United v. Federal Election Commission<sup>1</sup> the Commission has found a violation of the coordination regulations,<sup>2</sup> how many times the Office of General Counsel ("OGC") recommended reason to believe a violation of the coordination regulations occurred, but the Commission did not adopt the recommendation, and requested the MUR numbers and votes by commissioner name.*
  - a. *Please provided an updated figure in the response and an updated chart, if there are any updates, since the Commission's June 16, 2023, response.*

Since the Commission's response of June 16, 2023, no additional matters that are responsive to question 2 were closed and made public during the period June 9 to September 11, 2023. However, one additional case that should have been considered responsive to question 16 on June 16, 2023, has been identified. That case included four matters—MURs 7324 (A360 Media LLC), 7332 (A360 Media LLC), 7364 (Make America

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<sup>1</sup> *Citizens United v. Fed. Election Comm'n*, 558 U.S. 310 (2010).

<sup>2</sup> *For this question, please include cases in which the Commission found reason to believe that a respondent violated the coordination regulations, as well as cases where the Commission found violations of other provisions, such as the amount limitations or corporate contribution prohibition, based on the definition of coordination under 11 C.F.R. § 109.20 or coordinated communication under 11 C.F.R. § 109.21 in the regulations being satisfied, thus resulting in an excessive or prohibited in-kind contribution.*

Great Again PAC) and 7366 (A360 Media LLC)—that were considered together. In that case, OGC recommended that the Commission find reason to believe a violation of excessive or prohibited contributions in the form of coordinated expenditures occurred in all four of those MURs, and the Commission made that finding in three of those MURs, which were MURs 7324, 7332 and 7366 and which were discussed in response to question 33 in the Commission’s September 12, 2022 response to questions. The figures in the paragraph below from the June 16, 2023 response have been revised to include these four MURs and Attachment J-1 dated September 11, 2023 is enclosed. Commission staff regret the oversights here and in number 5 below and apologize for any resulting inconvenience.

During the period from the decision in *Citizens United v. FEC*, which was issued January 21, 2010, through September 11, 2023, OGC recommended reason to believe regarding the coordination regulations in 59 matters, which are listed in Attachment J-1 with MUR numbers and Commissioners’ votes. These include alleged violations of excessive or prohibited contributions in the form of coordinated expenditures including republication of campaign materials as described in 11 C.F.R. § 109.23. The Commission found reason to believe that a violation involving the coordination regulations occurred in seven of these matters. The Commission did not adopt recommendations to find reason to believe in 52 matters. In two matters where the Commission found reason to believe, OGC subsequently recommended probable cause to believe that a violation had occurred, but the Commission voted 2-4 against those recommendations.

*b. Additionally, in a separate chart, please identify the matters included in the response to question 2.a in which a vote occurred since quorum was restored in December 2020. Please provide the MUR numbers and votes by commissioner name.*

Attachment J-2 is a separate chart that includes the requested information.

3. *The Committee’s May 24, 2023, letter asked how many times since the Supreme Court’s decision in Citizens United v. Federal Election Commission the Commission has found a violation involving corporate contributions, how many times OGC recommended reason to believe a violation of the corporation contribution regulations occurred, but the Commission did not adopt the recommendation, and requested the MUR numbers and votes by commissioner name.*
  - a. Please provided an updated figure in the response and an updated chart, if there are any updates, since the Commission’s June 16, 2023, response.*

Since the Commission’s response of June 16, 2023, one additional matter that is responsive to question 3 was closed and made public during the period June 9 to September 11, 2023. The figures in the paragraph below from the June 16, 2023 response have been revised to include this additional MUR and Attachment K-1 dated September 11, 2023 is enclosed.

During the period from January 21, 2010 through September 11, 2023, the Commission has closed and made public 252 matters with allegations involving corporate contributions. OGC recommended reason to believe that a prohibited corporate contribution occurred in 81 matters, which are listed in Attachment K-1 with MUR numbers and Commissioners' votes. The Commission found reason to believe that a violation involving corporate contributions occurred in 49 of these matters. In nine of these 49 MURs, the Commission approved some, but not all, of OGC's recommendations to find reason to believe that particular respondents had violated the corporate contribution prohibition. In the other 32 MURs, the Commission did not find reason to believe related to corporate contributions. In two matters where the Commission found reason to believe, subsequent recommendations from OGC were not adopted.

- b. Additionally, in a separate chart, please identify the matters included in the response to question 3.a in which a vote occurred since quorum was restored in December 2020. Please provide the MUR numbers and votes by commissioner name.*

Attachment K-2 is a separate chart that includes the requested information.

- 4. The Committee's May 24, 2023, letter asked how many times since the Supreme Court's decision in Citizens United v. Federal Election Commission the Commission has found a violation of the political committee status rules (e.g., registration and reporting obligations), how many times OGC recommended reason to believe a violation of the political committee status regulations occurred, but the Commission did not adopt the recommendation, and requested the MUR numbers and votes by commissioner name.*

- a. Please provided an updated figure in the response and an updated chart, if there are any updates, since the Commission's June 16, 2023, response.*

Since the Commission's response of June 16, 2023, no additional matters that are responsive to question 4 were closed and made public during the period June 9 to September 11, 2023.

- b. Additionally, in a separate chart, please identify the matters included in the response to question 4.a in which a vote occurred since quorum was restored in December 2020. Please provide the MUR numbers and votes by commissioner name.*

Attachment L-1 is a separate chart that includes the requested information.

5. *The Committee's May 24, 2023, letter asked how many times since the Bluman v. Federal Election Commission<sup>3</sup> decision the Commission has found a violation of the foreign nationals prohibition, how many times OGC recommended reason to believe a violation of the foreign national prohibition regulations occurred, but the Commission did not adopt the recommendation, and requested the MUR numbers and votes by commissioner name.*
- a. Please provided an updated figure in the response and an updated chart, if there are any updates, since the Commission's June 16, 2023, response.*

Since the Commission's response of June 16, 2023, no additional matters that are responsive to question 5 were closed and made public during the period June 9 to September 11, 2023. However, one additional case that should have been considered responsive to question 16 on June 16, 2023, has been identified. The figures in the paragraph below from the June 16, 2023 response have been revised to include this MUR and Attachment M-1 dated September 11, 2023 is enclosed.

During the period from the *Bluman v. FEC* decision, which was issued January 9, 2012, and June 9, 2023, the Commission has closed and made public 94 matters alleging violations of FECA's foreign national prohibition. Of those, OGC recommended that the Commission find reason to believe that a violation occurred as to at least one respondent in 29 of those matters, which are listed in Attachment M-1 with MUR numbers and Commissioners' votes. The Commission found reason to believe FECA's foreign national prohibition had been violated in 15 matters, and it did not adopt OGC's reason to believe recommendations in 14 matters. In one matter where the Commission found reason to believe, OGC subsequently recommended probable cause to believe that a violation had occurred, but the Commission found no probable cause to believe that a violation had occurred.

- b. Additionally, in a separate chart, please identify the matters included in the response to question 5.a in which a vote occurred since quorum was restored in December 2020. Please provide the MUR numbers and votes by commissioner name.*

Attachment M-2 is a separate chart that includes the requested information.

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<sup>3</sup> *Bluman v. Fed. Election Comm'n*, 800 F. Supp. 2d 281 (D.D.C. 2011), *aff'd* 132 S. Ct. 1087 (2012).

6. *Questions 14 and 15 from the Committee’s May 24, 2023, letter asked about “deadlocked” votes. Please share updated information, if any, for those responses.*

The second paragraph of the June 16, 2023 answer to question 14 and Table 6 can be updated as follows:

Using a Commission vote database maintained by the Commission’s Secretary, an Enforcement Division case management database, and the Enforcement Query System on the FEC’s website, all MURs<sup>4</sup> that were considered by the Commission in Executive Session after April 1, 2019, and that were closed as of September 11, 2023, were examined. 471 such MURs were identified. 298 of these MURs, or 63 percent, had at least one vote after January 1, 2019, with no position receiving the support of four or more Commissioners, which the Commission has typically called a “split vote.”<sup>5</sup>

Table 6.

<b>Calendar Year</b>	<b>Closed MURs with At Least One Split Vote Considered in Executive Session</b>	<b>Closed MURs Considered in Executive Session</b>	<b>Percentage (At Least One Split/ Closed MURs in Exec.)</b>
4/1-12/31 2019 <sup>6</sup>	72	85	85%
2020 <sup>7</sup>	8	11	73%
2021 <sup>8</sup>	138	202	68%
2022 <sup>9</sup>	103	176	59%
1/1-8/30 2023 <sup>10</sup>	20	42	48%
Total for Entire Period <sup>11</sup>	298	471	63%

<sup>4</sup> See FEC Response, n.19 (June 16, 2023) (defining “Matters Under Review”).

<sup>5</sup> Split votes are most often 3-3 or 2-2, and can also be any other combination that lacks four or more votes in the affirmative or negative.

<sup>6</sup> The 2019 data cover the period from April 1, 2019 to December 31, 2019, which begins after the period covered in the Commission’s May 1, 2019 response to questions from the Committee on House Administration. During 2019, the Commission was without a quorum of Commissioners from September 1, 2019 to December 31, 2019.

<sup>7</sup> During 2020, the Commission had a quorum from June 5 to July 3 and from December 15 to 31, 2020.

<sup>8</sup> If additional cases with votes that lack four affirmative votes are also considered responsive to Question 14, an additional nine MURs would be responsive for 2021, for a total of 147 MURs or 73 percent.

<sup>9</sup> If additional cases with votes that lack four affirmative votes are also considered responsive to Question 14, an additional six MURs would be responsive for 2022, for a total of 109 MURs or 62 percent.

<sup>10</sup> If additional cases with votes that lack four affirmative votes are also considered responsive to Question 14, an additional 13 MURs would be responsive for 2023, for a total of 33 MURs or 79 percent.

<sup>11</sup> If additional cases with votes that lack four affirmative votes are also considered responsive to Question 14,

The June 16, 2023 answer to question 15 and Table 7 can be updated as follows:

Of the 471 MURs that were considered by the Commission in Executive Session after April 1, 2019, and that were closed as of September 11, 2023, 65 of these MURs, or 14 percent, had split votes (as defined in response to Question 14) on all votes taken during the Executive Session, other than a vote to close the file.<sup>12</sup>

Table 7.

<b>Calendar Year</b>	<b>Closed MURs with All Split Votes Considered in Executive Session</b>	<b>Total Closed MURs Considered in Executive Session</b>	<b>Percentage (All Split/ Closed MURs in Exec.)</b>
4/1-12/31/ 2019 <sup>13</sup>	20	85	24%
2020 <sup>14</sup>	3	11	27%
2021 <sup>15</sup>	28	202	14%
2022 <sup>16</sup>	22	176	13%
1/1-8/30 2023	2	42	5%
Total for Entire Period <sup>17</sup>	65	471	14%

Attachments G-1 and H-1 include additional information about the 298 MURs described above. Attachment H-1 includes additional information about the 65 “all split” MURs described above.

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an additional 28 MURs would be responsive for the entire period, for a total of 326 MURs or 69 percent.

<sup>12</sup> If additional cases with votes that lack four affirmative votes are also considered responsive to Question 15, an additional 15 MURs would be responsive for the entire period, for a total of 79 MURs or 17 percent.

<sup>13</sup> The period from April 1, 2019 to December 31, 2019 begins after the period covered in the Commission’s May 1, 2019 response to questions from the Committee on House Administration.

During 2019, the Commission was without a quorum of Commissioners from September 1, 2019 to December 31, 2019.

<sup>14</sup> During 2020, the Commission had a quorum from June 5 to July 3 and from December 15 to 31, 2020.

<sup>15</sup> If additional cases with votes that lack four affirmative votes are also considered responsive to Question 15, an additional five MURs would be responsive for 2021, for a total of 33 MURs or 16 percent.

<sup>16</sup> If additional cases with votes that lack four affirmative votes are also considered responsive to Question 15, an additional five MURs would be responsive for 2022, for a total of 27 MURs or 15 percent.

<sup>17</sup> If additional cases with votes that lack four affirmative votes are also considered responsive to Question 15, an additional 15 MURs would be responsive for the entire period, for a total of 79 MURs or 17 percent.

7. *Question 27 from the Committee's May 24, 2023, letter asked about the enforcement matters filed with the Commission that involve former President Trump, his committees, or his family members.*
- a. Please provide any updates to those figures, if any.*

Since the Commission's response of June 16, 2023, no additional matters that are responsive to question 7 were closed and made public during the period June 9 to September 11, 2023.

- b. In this updated response, provide: (a) the number of matters in which OGC recommended reason to believe a violation occurred; and (b) the number of matters in which the Commission adopted a reason to believe finding.*

During the period from June 16, 2015 through September 11, 2023, the Commission has closed and made public 56 matters with allegations involving former President Trump, his committees, or his family members. OGC recommended reason to believe that a violation occurred in 26 matters. The Commission did not find reason to believe a violation occurred in any of these 26 matters.

- c. The Committee's May 24, 2023, letter also asked the Commission to list each MUR number, name, identify OGC's recommendations, and how the Commission voted, and to provide votes by commissioner name. The Commission provided the material in two separate attachments. For the updated response, please provided the material in a single chart.*

Attachment Q-1 is a single chart that includes the requested information that pertains to the 26 MURs in which OGC recommended reason to believe that a violation occurred, which is consistent with a discussion between Committee on House Administration and FEC staff.

- d. Additionally, in a separate chart, please identify the matters included in the response to this question in which a vote occurred since quorum was restored in December 2020. Please provide the MUR numbers and votes by commissioner name.*

Attachment Q-2 is a separate chart that includes the requested information that pertains to the 21 MURs in which OGC recommended reason to believe that a violation occurred and in which a vote occurred since December 2020, which is consistent with a discussion between Committee on House Administration and FEC staff.

8. *The Committee's May 24, 2023, letter asked several data-specific questions about the enforcement and policy-making work of the Commission. The Commission is invited to provide any updated figures in response to those questions, as well.*

Between June 16, 2023 and September 11, 2023, the Commission did not approve a response to one request for advisory opinions as follows:

2023 (1)

2023-05 (Alamo PAC)

9. *Please share with the Committee the last two status reports for each division that prepares such reports.*

As discussed between Committee on House Administration and FEC staff, the two most recent status reports for the Enforcement, Litigation and Policy Divisions of the FEC's Office of General Counsel, with appropriate redactions, are attached as Attachment S.